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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 54th MEETING
(FIRST PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 6 March 1991, at 3.30 p.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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(a) Question of human rights in Cyprus

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*/ The summary record of the second part of the meeting appears as document E/CN.4/1991/SR.54/Add.1.

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The meeting was called to order at 4.05 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

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Draft resolution E/CN.4/1991/L.27

1. Mr. BENHIMA (Morocco), introducing the draft resolution on behalf of its sponsors to which the delegation of Indonesia, and the observers for the United Arab Emirates and Zambia had been added, said that, while its general thrust was similar to that of the previous draft resolutions adopted on the subject, it took into account recent developments.

2. At the request of the representative of the United States of America, a vote was taken on draft resolution E/CN.4/1991/L.27.

3. Draft resolution E/CN.4/1991/L.27 was adopted by 41 votes to 1.

Draft resolution E/CN.4/1991/L.30

4. Ms. PATTERSON (United States of America), speaking on a point of order, said that her delegation objected to the Commission's consideration of draft resolution E/CN.4/1991/L.30 submitted by the observer for the Libyan Arab Jamahiriya. Drawing attention to rule 69 of the rules of procedure, which provided that proposals submitted by non-members of the Commission could be put to the vote only at the request of a member, she said that, since no member of the Commission had requested that the draft resolution be put to a vote, it could not be acted upon.

5. The CHAIRMAN suggested that the Commission should allow the observer for the Libyan Arab Jamahiriya to introduce draft resolution E/CN.4/1991/L.30. If any member of the Commission then wished to sponsor the draft resolution, it would be put to a vote; otherwise, it would not be acted upon.

6. Mr. OMAR (Observer for the Libyan Arab Jamahiriya), introducing the draft resolution, thanked the Chairman for his even-handed suggestion, which was not only fair but also consistent with the rules of procedure. The text of the proposed draft resolution had been widely circulated and the International Committee of the Red Cross had been consulted. The violations of human rights with which the draft resolution was concerned were ongoing, and if no action was taken by the Commission, the result would be anarchy, the undermining of international law and the imposition of the logic of force.

7. After drawing attention to preambular paragraphs 3-5 and operative paragraphs 1 and 2, he said that there was no legal basis or justification for

the behaviour of the United States in creating a refugee problem in the region concerned, and asked what the situation would have been if his Government had transported Western prisoners of war.

8. The CHAIRMAN said that, since no member of the Commission had indicated a wish to sponsor the draft resolution, it would not be put to a vote.

Draft resolutions E/CN.4/1991/L.31 and E/CN.4/1991/L.80

9. Mr. SCHERK (Austria), speaking on a point of order, said that his delegation was engaged in intensive discussions with the observers for the Islamic Republic of Iran with a view to bridging the gap between draft resolutions E/CN.4/1991/L.31 and E/CN.4/1991/L.80 and arriving at a consensus text on the question of human rights in Iran. Accordingly, he proposed that, in accordance with rule 51 (c) of the rules of procedure, the Commission should defer consideration of those two draft resolutions.

10. Mr. KAMAL (Pakistan) said that it was his understanding that the parties concerned were not discussing the substance of draft resolution E/CN.4/1991/L.31. He could therefore see no justification for postponing the vote on that text.

11. The CHAIRMAN said that the request for postponement referred to both draft resolution E/CN.4/1991/L.31 and draft resolution E/CN.4/1991/L.80.

12. After a procedural discussion in which Mr. AMOO-GOTTFRIED (Ghana), Mr. NASSERI (Observer for the Islamic Republic of Iran) and Mr. STROHAL (Austria) took part, the CHAIRMAN suggested that the Commission should defer its consideration of both draft resolutions.

13. It was so decided.

Draft resolutions E/CN.4/1991/L.48/Rev.1 and E/CN.4/1991/L.90

14. Mr. AL-SABAH (Observer for Kuwait), introducing the draft resolution on behalf of its sponsors, said that he wished to reaffirm his Government's commitment to respect for human rights in accordance with the principles set forth in the Charter of the United Nations and the provisions of the International Covenants on Human Rights, the Geneva Conventions of 1949 and the First Additional Protocol of 1977 Relating to the Protection of Victims of International Armed Conflicts and Hague Convention IV of 1907. In addition, the Constitution of Kuwait stated that all persons were equal before the law, a provision which applied to both Kuwaiti citizens and foreigners.

15. The Government of Kuwait had returned to its homeland, following seven months of occupation, oppression and flagrant violations of human rights. It was struggling to guarantee the security of all persons there and to restore the rule of law and order in a land which had been subjected to lawless occupation.

16. The draft resolution, having referred to the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Human Rights, the Geneva Conventions of 1949 and the relevant General Assembly and Security Council resolutions, reaffirmed the obligation of all Member States to promote and protect human rights and

fundamental freedoms. It condemned the invasion and occupation of Kuwait on 2 August 1990 by the military forces of Iraq and deplored the refusal of Iraq to receive representatives of humanitarian organizations and a representative of the Secretary-General to help in extending humanitarian assistance to the Kuwaiti people under occupation.

17. The operative part of the draft strongly condemned the Iraqi authorities and occupying forces for their grave violations of human rights and, in particular, the acts of torture, arbitrary arrests, summary executions and disappearances. It called for the immediate release of all prisoners of war and detained civilians. It also decided to appoint a special rapporteur to examine the human rights violations committed in occupied Kuwait by the forces of Iraq who would report as soon as possible to the General Assembly and to the Commission at its forty-eighth session.

18. Mr. AL-KADHI (Iraq) said that his delegation had submitted some amendments to that draft resolution (E/CN.4/1991/L.90). Referring to a statement circulated the previous day by Amnesty International on acts of revenge currently being perpetrated by Kuwaiti forces and armed civilians against Palestinians and Iraqi civilians, he said that acts of violence, including collective massacres, arbitrary arrests and torture were being committed in Kuwait. That information was also to be found in reports in the various information media.

19. Those barbarous acts against innocent civilians must also be considered by the Commission, which had a historic responsibility with regard to the fate of those persons. It should not, therefore, consider draft resolution E/CN.4/1991/L.48/Rev.1 alone, without taking the other facts into account. To do so would be to fail in its duty to make an objective and balanced examination of the situation.

20. Mr. ELARABY (Observer for Egypt) said that the allegations contained in the amendments to the draft resolution (E/CN.4/1991/L.90) were based on hearsay and unconfirmed reports. The text referred to the ill-treatment of Egyptian citizens in Kuwait. He wished to point out that, historically speaking, Egyptians had always been well treated in Kuwait. It was true that, under the Iraqi occupation, those who had been unable to leave the country had encountered many hardships. That was why his delegation had become a sponsor of draft resolution E/CN.4/1991/L.41/Rev.1. He hoped that the Special Rapporteur would put the facts of the situation before the Commission in his report.

21. Kuwait had been liberated and its legitimate Government restored. All available information confirmed that law and order had been reintroduced. Moreover, the 40,000-strong Egyptian force that had participated in the liberation of Kuwait was still there. The Egyptian Embassy had been reopened and was functioning. It was therefore inconceivable that Egyptians were being subjected to any violations in those circumstances. Egyptians in Kuwait were enjoying the hospitality of that country and their safety and protection were not in doubt. Members had been assured by the representative of Kuwait that his Government would spare no effort to ensure that law and order prevailed in Kuwait with respect to all its inhabitants, citizens and non-citizens alike.

22. In his opinion, therefore, the amendments to the draft resolution contained in document E/CN.4/1991/L.90 should be rejected.

23. Ms. ANDREYCHUK (Canada) said that draft resolution E/CN.4/1991/L.41/Rev.1 dealt with occupied Kuwait. It would not be in keeping with good order, therefore, if the Commission failed to reject the amendments in document E/CN.4/1991/L.90, which were not on the subject of the draft resolution.

24. Mr. HESSEL (France) said that, for the reasons given by the representative of Canada, his delegation considered it essential that the amendments put forward by the representative of Iraq in document E/CN.4/1991/L.90 should be voted on and rejected without further delay. There was no point in continuing to discuss a text that did not refer to the problem of occupied Kuwait.

25. Mr. AL-KADHI (Iraq) said that, in submitting its amendment, his delegation was not pursuing tactical aims or attempting to influence the fate of draft resolution E/CN.4/1991/L.48/Rev.1. While he certainly hoped that Egyptian citizens in Kuwait had not been subjected to violations of human rights, he wished to point out that the facts referred to came from neutral sources such as the international press and Amnesty International.

26. Mr. ZAMIR (Bangladesh) said that his delegation, which supported the proposal by the representative of France, wished to become a sponsor of draft resolution E/CN.4/1991/L.48/Rev.1.

27. The CHAIRMAN said that the observer for Liechtenstein should also be added to the list of sponsors of draft resolution E/CN.4/1991/L.48/Rev.1.

28. He invited the Commmission to vote on draft resolution E/CN.4/1991/L.90.

29. Draft resolution E/CN.4/1991/L.90 was rejected by 32 votes to 2, with 5 abstentions.

30. Mr. PACE (Secretary of the Commission) said, with regard to the financial implications of draft resolution E/CN.4/1991/L.48/Rev.1, that the activities referred to in operative paragraph 12 would require the special rapporteur to undertake a trip to Geneva for a period of five working days in June/July 1991 for the purpose of holding consultations at the Centre for Human Rights. In July/August 1991, the special rapporteur would have to make a field trip to Kuwait for a period of 10 working days to collect information on the spot and then proceed to Geneva for five working days to prepare and finalize his report to the General Assembly. In October/December 1991, the special rapporteur would need to spend five working days in New York. In December 1991/January 1992, he would have to visit Geneva for a period of five working days to prepare his report for the Commission. In February/March 1992, the special rapporteur would again have to visit Geneva for a period of five working days to submit his report to the Commission at its forty-eighth session.

31. The relevant estimated costs would be $US 79,400 in 1991 and $US 14,200 in 1992. The costs of two interpreters to accompany the special rapporteur on his field mission would be $US 10,000. The cost of translating an estimated 100 pages from Arabic into English or another working language to facilitate information processing by the special rapporteur would be included in the regular budget. The draft resolution was considered to be within the scope of the Commission's perennial activities and resources would therefore be provided from the existing provision for the Economic and Social Council mandates under Section 23 and Section 28, respectively.

32. Mr. AL-KADHI (Iraq), speaking in explanation of vote before the vote, said that all the members of the Commission were aware that the aggression against Iraq had started not on 2 August 1990 but at the end of the Iran/Iraq War. That aggression had taken a number of forms aimed at destroying the military and economic structure of Iraq, after the United States and its Western allies had failed in their attack on Iraq using traditional and well-known methods. Iraq had acquired power that threatened their interests and designs in the area, which were concerned with the supply of natural resources, particularly oil.

33. Those circles had made use of the mass media to distort the international image of Iraq and to mislead world public opinion. The information media of those Powers were continuing to distort the facts and to cite false witnesses. A few days previously, for instance, television broadcasts had shown the bodies of Iraqi soldiers who had fallen victim to aggressive forces, alleging that they were the bodies of persons tortured by the Iraqi forces.

34. The draft resolution under consideration was yet another link in the chain of the campaign to tarnish Iraq's international image and he hoped that those delegations which really believed in human rights would understand the situation and adopt an appropriate position. Apart from any other consideration, the draft resolution had been overtaken by events. First of all, his Government had accepted the Security Council resolutions. Secondly, it had not rejected the humanitarian assistance offered by various humanitarian organizations, in particular medicine. Thirdly, with regard to the treatment of prisoners of war, members had heard the representative of the International Committee of the Red Cross state that all the prisoners were in good health. Furthermore, Iraq had freed all prisoners of war in accordance with the Geneva Conventions. Most of the provisions of the draft resolution were thus pointless and it was clearly being submitted for political reasons.

35. At the request of the representative of Iraq, a vote was taken on draft resolution E/CN.4/1991/L.48/Rev.1.

36. Draft resolution E/CN.4/1991/L.48/Rev.1 was adopted by 41 votes to 1.

Draft resolution E/CN.4/1991/L.50

37. Mr. REICH (United States of America), introducing the draft resolution on behalf of the sponsors, which had been joined by the delegation of Portugal and the observers for Costa Rica, Denmark and Kuwait, said that, in 1987, when his delegation had introduced a draft resolution on Cuba, many representatives had argued that there was no proof of human rights violations in that country. The report of the mission to Cuba (E/CN.4/1989/46 and Corr.1) had subsequently made it clear that human rights and all the articles of the Universal Declaration of Human Rights were indeed being violated in Cuba.

38. His delegation's aim had always been to ensure respect for human rights in Cuba and to support Cuban human rights activists and that was why the draft resolution drew attention to the human rights violations there. His delegation was anxious to reach a consensus on the draft resolution and requested a 15-minute suspension of the proceedings to consult with the sponsors of the competing resolution (E/CN.4/1991/L.88).

39. Mr. ROA KOURI (Cuba) recalled that two draft resolutions had also been submitted in the case of Iran. There was no need to interrupt the proceedings because there was a second draft resolution on Cuba and, if the United States delegation wished, it could continue its consultations without a suspension of the meeting.

40. Mr. CROOK (United States of America), speaking on a point of order, said that it was out of order for both draft esolutions to be considered concurrently. Rule 65, paragraph 1, of the rules of procedure provided that draft resolution should be voted on in the order in which they had been submitted.

41. Mr. ROA KOURI (Cuba), speaking on a point of order, said that he wished to clarify that the Commission was being asked to consider two resolutions on the same topic. As had been done in other cases, they should be considered concurrently, but if no decision could be reached on the matter a vote should be taken.

42. The CHAIRMAN suggested that a vote be taken on the United States proposal for a 15-minute suspension of the meeting.

43. It was so decided.

44. The United States proposal was adopted by 19 votes to 10 with 8 abstentions.

The meeting was suspended at 5.45 p.m. and resumed at 6.00 p.m.

Draft resolution E/CN.4/1991/L.88

45. Mr. ARTEAGA (Venezuela), introducing the draft resolution on behalf of the sponsors, which had been joined by the delegation of Mauritania, said that a group of Latin American countries had taken the initiative in preparing the draft resolution in an effort to make a constructive contribution to the question of human rights in Cuba. The draft resolution was a balanced one and in keeping with the legal provisions of the Commission's decisions. It took account of Commission decision 1989/113 on the situation in Cuba and also of the Secretary-General's report (E/CN.4/1991/28) concerning the contacts maintained with the Government of Cuba.

46. The Secretary-General had suggested methods of handling the human rights situation in Cuba and they had been accepted by the Government of Cuba. The sponsors of the draft resolution were convinced that mutually agreed co-operation was the best way to protect and promote human rights in Cuba. The Commission had the responsibility of maintaining objectivity in its work and the draft resolution was a step in the right direction.

47. Mr. GRILLO (Colombia), speaking on behalf of the sponsors of draft resolution E/CN.4/1991/L.88, proposed that, under rule 65, paragraph 1, of the rules of procedure, the Commission should decide to give precedence to that draft resolution for a number of reasons. Draft resolution E/CN.4/1991/L.88 reflected the approach of a Latin American group of countries which had gained the support of countries from other regions. The evolution of the human rights situation in Cuba should be viewed in the light of the events that had taken place since the last session of the Commission and of the documentation before the Commission, particularly the Secretary-General's report on his

contacts with the Cuban authorities since May 1990. The draft resolution was in keeping with the standards and procedures of the Commission and clearly reflected the ideas of the Secretary-General on the subject.

48. The operative paragraphs of the draft resolution took up the ideas contained in the Secretary-General's report prepared pursuant to Commission decision 1989/113. The Latin American countries sponsoring the draft resolution had worked in their highest regional forum to restore the universality of the inter-American system, without the exclusion of discrimination against any State in the region. The list of sponsors showed the broad support that the text had secured from the various regional groups and from the movement of non-aligned countries.

49. Mr. BLACKWELL (United States of America), speaking on the proposal before the Commission that the order of the resolutions on Cuba be changed, said that he strongly urged the Commission to vote against it. Draft resolution E/CN.4/1991/L.50 had been the result of consultations with delegations from all regions, as the diversity of its sponsorship showed. It reflected a balanced and well-considered response to the situation in Cuba.

50. The opponents of the resolution were unwilling to face it squarely and were using a procedural game to avoid having to do so by seeking to have the Commission vote first on their own well-intentioned but flawed resolution. In addition, draft resolution E/CN.4/1991/L.50 had been submitted in time, whereas the other draft resolution had not, and there had been no prior consultation of those affected. The very circumstances in which the alternative draft resolution had been submitted constituted reason enough not to consider it.

51. The central point, however, was that draft resolution E/CN.4/1991/L.50 was a good resolution that had won broad support and should be voted on forthwith. He urged delegations once again to vote against the proposal and to defeat the procedural manoeuvring.

52. The CHAIRMAN said that both draft resolutions had, in fact, been submitted on time.

53. At the request of the representative of Colombia, a vote was taken by roll-call on the proposal that draft resolution E/CN.4/1991/L.88 should be given precedence.

54. Austria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour:	Brazil, China, Colombia, Cuba, Ethiopia, Ghana, India, Iraq, Madagascar, Mauritania, Mexico, Peru, Somalia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Zambia.
Against:	Australia, Austria, Bangladesh, Belgium, Canada, Czech and Slovak Federal Republic, France, Gambia, Germany, Hungary, Italy, Japan, Panama, Philippines, Portugal, Sweden, United States of America.
Abstaining:	Argentina, Burundi, Cyprus, Indonesia, Morocco, Pakistan, Senegal, Swaziland.

55. The Colombian proposal was adopted by 18 votes to 17, with 8 abstentions.

56. Mr. BLACKWELL (United States of America) said that his delegation formally moved that operative paragraphs 4 and 6 of draft resolution E/CN.4/1991/L.88 be amended. Operative paragaraph 4 would be amended to read:

> "4. Requests the Secretary-General, after consultation with the Commission's Chairman and Bureau, to appoint a special representative to maintain, in accordance with Commission on Human Rights decision 1989/113 of 9 March 1989, direct contacts with the Government and citizens of Cuba on the issues and questions contained in, and associated with, the report of the mission to Cuba (E/CN.4/1989/46 and Corr.1)."

Operative paragraph 6 would be amended to read:

> "6. Requests the appointed special representative to carry out his mandate bearing in mind the Universal Declaration of Human Rights and report the results to the Commission under this agenda item on its endeavours pursuant to this resolution at its forty-eighth session."

57. The resolution, thus amended, would protect the Commission's authority and integrity by associating its officers with the role of the Secretary-General; it would provide a clear mandate, maintain a public process and ensure - a point highly relevant to the situation of human rights in Cuba - that the item remained before the Commission at its forthcoming session.

58. Mr. HELLER (Mexico) said that the sponsors of draft resolution E/CN.4/1991/L.88 had sought to achieve a consensus; the negotiations, therefore, as previous speakers had pointed out, had involved intensive consultations and the study of wide varieties of wording. Operative paragraphs 4 and 6, as they stood, expressed the Commission's confidence in the Secretary-General. The sponsors could not, therefore, accept the oral amendments proposed by the representative of the United States.

59. Mr. ROA KOURI (Cuba) said that his delegation agreed with the representatives of Mexico, Colombia and Venezuela. The United States delegation's proposed oral amendments were further unacceptable in that Commission decision 1989/113 mentioned only that the Secretary-General should maintain direct contact with the Cuban Government, and had nowhere referred to contacts with the citizens in Cuba.

60. At the request of the representative of the United States of America, a vote was taken by roll-call on the proposed oral amendments to operative paragraphs 4 and 6 of draft resolution E/CN.4/1991/L.88.

61. Gambia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bangladesh, Belgium, Canada, Czech and Slovak Federal Republic, France, Gambia, Germany, Hungary, Italy, Japan, Morocco, Panama, Philippines, Portugal, Senegal, Swaziland, Sweden, United States of America.

Against: China, Colombia, Cuba, Ethiopia, Ghana, India, Indonesia, Iraq, Mauritania, Mexico, Pakistan, Peru, Somalia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Zambia.

Abstaining: Brazil, Burundi, Cyprus, Madagascar.

62. The amendments proposed by the United States of America were adopted by 21 votes to 18, with 4 abstentions.

63. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/1991/L.88 as a whole, as amended.

64. Mr. ROA KOURI (Cuba), speaking in explanation of vote before the vote, said that a series of events witnessed by the Commission during its past five sessions had testified to the United States' implacable opposition to the Cuban revolution. In 1988, his Government had invited the Commission to send a visiting mission to consider the human rights situation in his country. Following the subsequent discussions in open session, the Commission had adopted decision 1989/113; and the Secretary-General had subsequently reported, in document E/CN.4/1991/28, on the contacts maintained with the Government of Cuba. The sponsors of draft resolution E/CN.4/1991/L.88 had based its text on that report.

65. The draft resolution took account of the criteria set forth by the Secretary-General, and outlined by his own delegation at the current session, and had reflected his Government's willingness to continue contacts pursuant to Commission decision 1989/113. His Government was ready to pursue such contacts, because they were in line with the normal contacts the Secretary-General would maintain with any Member State, and because of Cuba's endorsement of the relevant international instruments, including procedures pursuant to Council resolution 1503 (XLVIII).

66. The oral amendments proposed by the delegation of the United States stemmed not from any desire to promote voluntary co-operation but from the urge to impose its own viewpoint, even to the extent of exceeding what the Secretary-General himself had deemed useful in the exercise of his good offices. His Government would not accept, in that sphere or any other, any such imposition by those who would seemingly go to any lengths, including sponsoring terrorism, to undermine its sovereignty. His delegation, therefore, would vote against the amended draft resolution.

67. Mr. de RIVERO (Peru) requested a brief suspension of the meeting, to allow consultation among the sponsors of draft resolution E/CN.4/1991/L.88.

68. Mr. BLACKWELL (United States of America) said that his delegation was able to agree to that request.

The meeting was suspended at 6.40 p.m. and resumed at 6.50 p.m.

69. Mr. BLACKWELL (United States of America), speaking in explanation of vote before the vote, said that his delegation would vote in favour of draft resolution E/CN.4/1991/L.88 as a whole, as orally amended by his delegation. If that text were adopted, it would then withdraw draft resolution E/CN.4/1991/L.50.

70. The delegation of Cuba had again responded as it had to the Commission's adoption, at its previous session, of a text calling for improvement in the human rights situation in Cuba, thus once again displaying contempt for the Commission's actions and decisions. Adoption of draft resolution E/CN.4/1991/L.50 would have provided an opportunity for the Governments represented in the Commission to put aside political considerations and take action to protect the human rights of Cuban citizens; no duty was more honourable.

71. Mr. ARTEAGA (Venezuela) said that the sponsors of the original draft resolution had withdrawn their sponsorship of its amended version, and would abstain during the vote upon it.

72. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1991/L.88 as a whole, as orally amended.

73. Italy, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bangladesh, Belgium, Canada, Czech and Slovak Federal Republic, France, Gambia, Germany, Hungary, Italy, Japan, Madagascar, Morocco, Panama, Philippines, Portugal, Senegal, Swaziland, Sweden, United States of America.

Against: China, Cuba, Ethiopia, Iraq, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Brazil, Burundi, Colombia, Cyprus, Ghana, India, Indonesia, Mauritania, Mexico, Pakistan, Peru, Somalia, Venezuela, Yugoslavia, Zambia.

74. Draft resolution E/CN.4/1991/L.88 as a whole, as orally amended, was adopted by 22 votes to 6, with 15 abstentions.

Draft resolution E/CN.4/1991/L.53

75. Mr. ROMARE (Sweden), introducing the draft resolution on behalf of the sponsors, which had been joined by the delegations of Italy and the United States of America and the observers for Denmark, Greece, Ireland and Switzerland said that the main purposes of the text were to express the Commission's acknowledgement, of the Special Rapporteur's report on the situation in Romania (E/CN.4/1991/30), to recommend that the Romanian authorities continue their action to ensure that human rights in all their aspects were respected in their country, both de jure and de facto, to recommend the possibility of the use, by the Romanian authorities, of the United Nations Voluntary Fund for Advisory Services as suggested in the report of the Special Rapporteur, and to extend the latter's mandate for a further year.

76. Mr. PACE (Secretary of the Commission) read out the administrative and programme budget implications of draft resolution E/CN.4/1991/L.53. In order to carry out his mandate, the Special Rapporteur would have to visit Geneva for a period of five working days in May/June 1991 to hold consultations at

the Centre for Human Rights and plan his work. He would then undertake a field mission in 1991, accompanied by two substantive officers, and would visit Geneva again, for a period of five working days in August/September 1991 in order to prepare his report, and in December 1991 in order to finalize it. In February/March 1992, he would visit Geneva for a period of five working days to report to the Commission at its forty-eighth session.

77. The estimated cost of the programme would be $US 66,700 for 1991 and $US 13,000 for 1992. The relevant costs would be financed under section 23 (Human Rights) and section 28 of the programme budget, respectively. Full details would appear in a subsequent document.

78. Draft resolution E/CN.4/1991/L.53 was adopted without a vote.

Draft resolution E/CN.4/1991/L.54

79. Mr. SZELEI (Hungary), introducing the draft resolution on behalf of the sponsors which had been joined by the delegation of Australia and the observer for Switzerland, said that the sponsors regarded the issue of co-operation with representatives of United Nations human rights bodies as of continuing major importance, and they thus suggested the strengthening of a significant part of the mechanism for that purpose. The draft resolution also expressed the Commission's solidarity with individuals and groups who risked obstruction and intimidation in their efforts to co-operate with the United Nations with regard to allegations of human rights violations. There were too many cases reported to United Nations bodies of harassment of individuals and groups either before or after they co-operated with United Nations representatives.

80. Having briefly summarized the operative part, he said that an alteration should be made to operative paragraph 3: after the words "the Sub-Commission on Prevention of Discrimination and Protection of Minorities" the words "or the General Assembly" should be added.

81. Mr. PACE (Secretary of the Commission) read out the programme budget implications of operative paragraphs 2, 4 and 5 of draft resolution E/CN.4/1991/L.54. The activities would require the co-ordination, throughout the period covered by the report, of the action taken by all representatives of United Nations human rights bodies as well as the collection and analysis of other relevant information which did not fall into any of the mandates of the treaty bodies and the aforesaid representatives; it would also require the preparation of a report by the Secretary-General to the Commission at its forty-eighth session. General temporary assistance, involving three work-months at P-3 level and one work-month at GS level, would amount to some $US 43,900 for 1991; the cost would be financed under section 23 (Human Rights) of the programme budget. Full details would appear in a subsequent document.

82. Draft resolution E/CN.4/1991/L.54 was adopted without a vote.

Draft resolution E/CN.4/1991/L.57.

83. Mr. DUHS (Sweden), introducing the draft resolution, said that it was a traditional text referring to the report submitted by the Special Rapporteur on summary or arbitrary executions (E/CN.4/1991/36) to the Commission at its current session. In operative paragraph 1, the Commission strongly condemned

the large number of such executions which continued to take place in various parts of the world, and in operative paragraph 3 took note with appreciation of the Special Rapporteur's report.

84. The text reflected a few new elements: in the eleventh preambular paragraph the attention paid to the problem of situations of internal violence had been welcomed; in operative paragraph 11 Governments were urged to undertake all necessary and possible measures to lower the level of violence in such situations; and in operative paragraph 12, Governments which had received the Special Rapporteur in their countries were invited to report to him on the action taken on his recommendations.

85. He drew attention to some editorial corrections: in the heading, "Summary of arbitrary executions" should read "Summary or arbitrary executions"; and in the fourth preambular paragraph, the date of General Assembly resolution 39/110 should read 4 December 1984.

86. Draft resolution E/CN.4/1991/L.57 was adopted without a vote.

Draft resolution E/CN.4/1991/L.60/Rev.1

87. Mr. KOUPTCHICHINE (Ukrainian Soviet Socialist Republic), introducing draft resolution E/CN.4/1991/L.60/Rev.1, said that, in the sixth preambular paragraph, the words "the international" should be deleted.

88. The purpose of the draft resolution was to encourage the international community not only to put an end to existing human rights violations, but also to create guarantees to prevent them recurring. One of those guarantees was a system for establishing responsibility for human rights violations which, as stated in the seventh preambular paragraph and operative paragraph 2, could be a major factor in preventing violations of individual rights.

89. In operative paragraph 2, the draft resolution stated that the establishment of further clear rules regulating responsibility for human rights violations might serve as one of the basic preventive guarantees aimed at averting infringements of human rights and fundamental freedoms. The sponsors of the draft resolution were concerned that isolated violations might easily escalate into a widespread and systematic policy. Such violations ran contrary to the principles of the Charter of the United Nations and the major human rights instruments, as was stated in operative paragraph 1.

90. The draft resolution called upon States which had not yet done so to undertake the necessary legislative measures with a view to establishing the legal responsibility under domestic law of those guilty of human rights violations (operative para. 4). However, he wished to make it clear that the draft resolution did not aim to define the various types of responsibility or their scope which was the prerogative of the appropriate United Nations bodies or to recommend measures to be adopted at national level which was the prerogative of States.

91. The text was the result of long and intensive negotiations during the Commission's session. He wished to thank the parties concerned for their

commitment and their sincere desire to reach a constructive and mutually acceptable compromise. He hoped that the draft resolution would be adopted without a vote.

92. Draft resolution E/CN.4/1991/L.60/Rev.1, as revised, was adopted without a vote.

Draft resolution E/CN.4/1991/L.61

93. Mr. KESSEL (Canada) introducing draft resolution E/CN.4/1991/L.61 on behalf of the sponsors, said that it expressed concern about the increasingly heavy burden being imposed, particularly upon developing countries with limited resources and on the international community as a whole, by sudden mass exoduses and displacements of population. It stressed the need for international co-operation to avert new massive flows of refugees, as well as for the provision of durable solutions to refugee situations. It was noted that the Executive Committee of the Programme of the United Nations High Commissioner for Refugees had specifically acknowledged the direct relationship between observance of human rights standards, refugee movements and problems of protection.

94. The draft resolution welcomed the report of the Joint Inspection Unit, entitled: "The co-ordination of activities related to early warning of possible refugee flows". It invited the Secretary-General, all intergovernmental agencies and offices as well as international agencies concerned speedily to implement the recommendations contained in that report, particularly with regard to the establishment of a working group and of a consultative mechanism within the United Nations system for early warning of possible refugees flows and displaced persons.

95. The draft resolution further requested the Secretary-General to intensify his efforts to develop the role of the Office for Research and Collection of Information to strengthen the co-ordination of information gathering and analysis with agencies, and urged the Secretary-General to allocate the necessary resources to consolidate and strengthen the system for undertaking early warning activities in the humanitarian area. He hoped that, as in the past, the draft resolution would be adopted by consensus.

96. The CHAIRMAN said that Greece had asked to be included as a sponsor of the draft resolution.

97. Draft resolution E/CN.4/1991/L.61 was adopted without a vote.

Draft resolution E/CN.4/1991/L.68

98. Mr. BOSSUYT (Belgium), introducing draft resolution E/CN.4/1991/L.68 on the situation of human rights in Iraq, said that Gambia had withdrawn its name from the list of sponsors, and Kuwait had asked to be included.

99. The draft resolution did not deal with the armed conflict brought about by Iraq's invasion of Kuwait, but with the situation of human rights in Iraq itself. The Commission's first duty, after all, was to monitor the way in which Governments, and in that instance the Government of Iraq, treated the persons under their jurisdiction, particularly their own nationals. The draft resolution gave the Commission, and the peoples it represented, the

opportunity to express their sympathy and solidarity with the Iraqi people, who had for years suffered from human rights violations perpetrated by their now Government.

100. Given the growing number of testimonies as to the extent of human rights violations, committed by the Iraqi Government, it was surely time for the Commission to call for the appointment of a special rapporteur to examine the situation in that country. The international community's inaction in the past and the ensuing feeling of invulnerability on the part of the Government of Iraq had had consequences of which the world had become painfully aware over the past few months.

101. The current situation in Iraq was highly dangerous vis-à-vis respect for human rights, and vigilance on the part of the international community was more necessary than ever. A special rapporteur would list the violations which had taken place and establish a dialogue between the Iraqi Government and the Commission, and would thus make an important contribution to respect for the fundamental rights of Iraqi citizens, who had suffered more than anyone from their Government's contempt for international law and human rights standards.

102. The Commission should not look for mitigating circumstances to excuse the Iraqi Government's conduct. It had a duty to respond to the suffering of oppressed peoples, without submitting to pressure from their Governments. The time had come to defend the citizens of Iraq against a Government which had flagrantly and systematically violated their rights over many years. The Commission's greatest hope was that the Iraqi Government would undertake to guarantee respect for human rights in the country.

103. The sponsors of the draft resolution wished to make a revision to operative paragraph 4; a phrase should be added at the end of the paragraph, to read: "... the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20) and to communicate to the Commission any new measures that the Government of Iraq may take in the field of human rights.".

104. The CHAIRMAN said that the observer delegation of Liechtenstein had asked to be included as a sponsor of the draft resolution.

105. Mr. MADHOUR (Iraq) said that, for the past five years, the States which controlled the Commission on Human Rights - namely the United States of America and other Western countries - had tried to exploit the Commission for their own political purposes by submitting draft resolutions condemning Iraq. In the past, those attempts had failed because the other members of the Commission had not believed the allegations against Iraq. The same familiar draft resolution had been submitted to the current session, but its tone was even harsher than usual because of the political circumstances.

106. He wished to point out that Iraq co-operated fully with the Commission and all its subsidiary bodies and had continued to work with the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Summary or Arbitrary Executions, even in the present crisis. All the allegations being considered by the Working Group and the Special Rapporteur dated from the period of the Iran-Iraq war; there had been no unexplained disappearances in Iraq since the war had ended in 1988.

107. The draft resolution placed great emphasis on the rights of the Kurdish population of Iraq. As his delegation had pointed out before, Iraq was the only State in the region which granted the Kurds their cultural and other rights; however, it was also determined to take all necessary action to thwart the activities of destabilizing elements in the service of foreign Powers.

108. The draft resolution further referred to "tens of thousands of displaced Kurds". After its experiences in the Iran-Iraq war, the Iraqi Government had decided to establish a buffer zone along its borders with the Islamic Republic of Iran and Turkey. The citizens who had been obliged to leave their homes had been fully compensated and given new homes in better conditions near the cities. If the countries which had sponsored the draft resolution were so concerned about the Kurds, he wondered why it was precisely the Kurdish areas of northern Iraq which had been bombed during the recent hostilities, causing the deaths of a large number of Kurds.

109. After the Iran-Iraq war, the Iraqi Government had done much to overcome the country's social and economic problems and had adopted many measures to protect human rights. It had planned to change the Constitution, introduce political pluralism and establish freedom of the press. The situation of human rights would have improved vastly if those States which had submitted the draft resolution had not resorted to a media campaign against Iraq and, finally, to military intervention. It was those States which were responsible for the current human rights situation in Iraq.

110. His delegation was not concerned about the draft resolution under discussion, but it was concerned about the consequences for the Commission if it adopted a resolution put forward by States which had themselves infringed the rights of Iraqi citizens. For example, those States had set up a blockade on supplies of food to Iraq in an attempt to starve the people, in contravention of the 1949 Geneva Conventions for the protection of victims of war. They had also set up a blockade of medicines and baby milk, in violation of the Geneva Conventions and the Convention on the Rights of the Child. They had bombed civilian targets inside Iraq, killing women, children and old people, in violation of the Geneva Conventions. They had displayed their Iraqi prisoners on television in order to humiliate them, in violation of the third Geneva Convention Relative to the Treatment of Prisoners of War. They had used napalm bombs, which were prohibited under international law. They had exceeded their authority under Security Council resolutions by destroying the economic infrastructure of Iraq, including roads, water pipelines, electricity networks, places of worship, etc. In those circumstances, it was difficult for Iraq to believe that the United States of America and the other countries concerned had any respect for human rights at all.

111. The countries which had submitted the draft resolution had lost all their credibility by the human rights violations they had committed during the Gulf war. Their aim in submitting the present draft resolution was a purely political one. The draft resolution called for the appointment of a special rapporteur; but he wondered how any special rapporteur could fulfil his mandate among the devastation wreaked in Iraq by the United States of America and the other countries concerned. Would the report cover the bombing of a civilian air-raid shelter, in which more than 400 women and children had died? Would it describe the plight of children deprived of milk and medicines?

112. It would be a tragedy if the Commission were to adopt a resolution submitted by States which were themselves responsible for human rights violations in Iraq. He hoped that the Commission would not sacrifice its credibility, as the Security Council had already done. States which had abstained for many years on resolutions dealing with the flagrant violations of human rights in occupied Palestine and South Africa could not convince anyone that they cared about human rights.

113. Mr. PACE (Secretary of the Commission) informed the Commission of the financial implications of the draft resolution contained in document E/CN.4/1991/L.68. The draft resolution called for the appointment of a special rapporteur to make a thorough study of violations of human rights by the Government of Iraq, based on all information that the special rapporteur might deem relevant, including information provided by intergovernmental and non-governmental organizations and any comments and material provided by the Government of Iraq. The special rapporteur would present an interim report to the General Assembly at its forty-sixth session and a report to the Commission at its forty-eighth session.

114. The special rapporteur would need to undertake the following missions: five days of consultations in Geneva in June/July 1991; a 10-day field mission to Iraq with two staff members from the Centre for Human Rights, followed by five days in Geneva, in July/August 1991; five days in New York to submit his report to the General Assembly between October and December 1991; five days in Geneva to finalize his report for the forty-eighth session of the Commission in December 1991 or January 1992; five days to present his report to the Commission in February/March 1992.

115. The estimated cost of travel and professional and general-service support for the special rapporteur was $US 78,100 for 1991 and $US 14,200 for 1992. In addition, the services of two interpreters for the mission to Iraq would cost an estimated $US 10,000. The translation of approximately 100 pages of Arabic into English or another working language of the Commission would be financed from the resources of the Conference Services Division (Section 29B of the programme budget). In respect of the other expenses, the draft resolution was considered to be within the scope of perennial activities, and resources would therefore be provided from the existing provision for the Economic and Social Council mandates under Sections 23 and 28, respectively.

116. Mr. ALFONSO MARTINEZ (Cuba), speaking in explanation of vote before the vote, said that some aspects of the draft resolution deserved further consideration, but others were not sufficiently well argued. Moreover, the draft resolution contained no expression of concern for the thousands of Iraqi citizens who had been killed or injured during the bombing campaign against Iraq, which had destroyed houses and workplaces and infringed the economic, social and cultural rights of the Iraqi people. The motives of some of the sponsors of the draft resolution seemed highly suspicious. His delegation intended to abstain in any vote on the draft resolution.

117. Ms. ANDREYCHUK (Canada) said that her delegation had already expressed its concern about the situation in Iraq in its statement under agenda item 12. It had long been concerned about the Commission's inability to remedy human rights violations in Iraq. The appointment of a special rapporteur would bring home to the Iraqi Government the fact that it was not entitled to

violate the rights of its citizens, and the special rapporteur's report would reveal more of the sufferings caused by the Gulf war. It was important not to miss that opportunity.

118. She wished to remind the representative of Iraq that the non-governmental organization Amnesty International, whose reports he had so highly praised in respect of another country, had also produced numerous reports about human rights violations in Iraq. The draft resolution deserved to be adopted by consensus.

119. At the request of the representative of Iraq, a vote was taken by roll call on draft resolution E/CN.4/1991/L.68.

120. Mauritania, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Belgium, Brazil, Burundi, Canada, Colombia, Cyprus, Czechoslovakia, Ethiopia, France, Gambia, Germany, Hungary, Italy, Japan, Mexico, Panama, Peru, Philippines, Portugal, Senegal, Swaziland, Sweden, Ukrainian SSR, Union of Soviet Socialist Republics, United States of America, Venezuela, Yugoslavia.

Against: Iraq.

Abstaining: Bangladesh, China, Cuba, Ghana, India, Indonesia, Madagascar, Pakistan, Somalia, Zambia.

121. Draft resolution E/CN.4/1991/L.68, as revised, was adopted by 30 votes to 1, with 10 abstentions.

Draft resolution (E/CN.4/1991/L.81)

122. Mr. PACE (Secretary of the Commission) said that an error had slipped into the text of L.81: in the twelth preambular paragraph, the words "against senior member of the Salvadorian Government" should be deleted.

123. Mr. ARTEAGA (Venezuela), introducing draft resolution E/CN.4/1991/L.81 on behalf of its sponsors, which had been joined by Bolivia, Portugal and Uruguay, said that the text reflected their concern at the difficult situation which El Salvador was currently experiencing and their desire to promote peace, security and prosperity for the people of that country. The draft resolution took note of the negotiations between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional, with the active participation of the Secretary-General and his Personal Representative. It urged the parties to make the greatest possible efforts to carry out the political agreements of Geneva and Caracas in order to achieve a firm and lasting peace in the shortest possible time so as to put an end to human rights violations in El Salvador. It expressed its profound satisfaction at the Agreement on human rights adopted in Costa Rica in July 1990. In general, concern at the continuation of the armed conflict and the persistence of numerous human rights violations, but also recognized the efforts made by the parties to improve the human rights situation. References were also made to the unsatisfactory judicial system, in particular the judicial proceedings in connection with the assassination of the Rector and other members of the

Central American University. The draft resolution would extend the mandate of the Special Representative for a further year and request him to submit his report on the developments of the human rights situation in El Salvador to the General Assembly at its forty-sixth session and to the Commission on Human Rights at its forty-eighth session. Venezuela was confident that draft resolution would be adopted without a vote.

124. Mr. PACE (Secretary of the Commission), speaking on the financial implications of the draft resolution contained in document E/CN.4/1991/81 said that it was envisaged that in May 1991 the Special Representative would go to Geneva for five working days to hold consultations at the Centre for Human Rights and plan his work; in July 1991, accompanied by two staff members from the centre, he would carry out a mission to El Salvador for 15 working days to collect information on the spot; in September 1991, he would travel to Geneva for five working days to prepare his report; in November, he would return to Geneva for five working days to finalize it; in November/December 1991, he would travel to New York for five working days to present his report to the General Assembly at its forty-sixth session; and in February/March 1992, he would travel to Geneva for five working days to present his report to the Commission at its forty-eighth session. Additional staffing resources were required to assist the Special Rapporteur in the processing of information collected and in the preparation of the final report for a period of nine months in 1991 and two months in 1992. Overall estimated costs were $US 78,400 in 1991 and $US 13,400 in 1992. Draft resolution L.81 was considered to be within the scope of perennial activities, and resources would therefore be provided from the existing provision for the Economic and Social Council mandates under Section 23 and Section 28, respectively.

125. Draft resolution E/CN.4/1991/L.81 was adopted without a vote.

Draft resolution (E/CN.4/1991/L.84)

126. Mr. PEREIRA GOMES (Portugal), introducing draft resolution E/CN.4/1991/L.84 on behalf of its sponsors, which had been joined by Panama and the United States of America, said that the Commission had been considering the human rights situation in Albania since 1984. In its resolution 1990/49, the Commission had acknowledged that for the first time, the Albanian Government had begun co-operating with the Commission's Special Rapporteur on religious intolerance. In 1990, the Government of Albania had released a number of political prisoners and adopted positive legislative and administrative measures, and general elections were scheduled for 31 March 1991. By adopting the current draft resolution, the Commission would encourage the Government and people of Albania to pursue the current democratic process. He hoped that the draft resolution could be adopted by consensus.

127. Mr. PAPUCIU (Observer for Albania) said that reservations about the human rights situation in Albania were unfounded. His Government was working to build a just democratic society. The far-reaching democratization process that had begun was irreversible and deserved the support of the international community. Since 1990, measures had been taken to improve the political system, develop the economy and defend the democratic freedoms of citizens. Major amendments had been made in the Criminal Code, rehabilitation centres had been opened, political parties had been created, guarantees had been introduced for freedom of belief and religion, and political prisoners had

been released. A new law guaranteed free and multi-party elections and the right of everyone to vote and to be elected. Such legislative measures demonstrated that the human rights situation in Albania was in conformity with the relevant international instruments.

128. Draft resolution E/CN.4/1991/L.84 was adopted without a vote.

Draft resolution E/CN.4/1991/L.85

129. Mr. GOMPERTZ (France), introducing draft resolution E/CN.4/1991/L.85 on behalf of its sponsors, said that Haiti was currently going through a difficult period. The international community was helping Haiti to hold elections and return to democracy. The attempted coup d'état in January 1991 of supporters of the former dictatorship and the recent killings that demonstrated that the rule of law and respect for human rights had not yet been fully consolidated. The draft resolution called upon the Commission to consider the situation in Haiti under the agenda item "Advisory services in the field of human rights". It was to be hoped that the independent Expert to be appointed would be able to assist the Government of Haiti in implementing its obligations effectively, that he would obtain all the support he needed and that the draft resolution could be adopted by consensus.

130. Mr. PACE (Secretary of the Commission), speaking on the financial implications of the draft resolution contained in document E/CN.4/1991/L.85, said that the activities required for implementation of the draft resolution consisted of travel by the Expert to Geneva for consultations in May-June 1991 for five days, to Haiti on a field mission accompanied by two staff members from the Centre for Human Rights in July/August 1991 for five days and to Geneva for five days in August 1991 to finalize the report and again in February 1992 to present the report to the Commission at its forty-eighth session. Temporary assistance would be required in the form of ten work-months at the P-3 level and ten work months at the general service level. Costs for 1991 were estimated at $US 98,200 and, $US 37,400 for 1992. The relevant costs to be financed under Section 24 (regular programme of technical co-operation) were estimated at $US 98,200 for 1991 and $US 37,400 for 1992.

131. Draft resolution E/CN.4/1991/L.85 was adopted without a vote.

Draft resolution E/CN.4/1991/L.87

132. Mr. BENEDETTI (Italy), introducing draft resolution E/CN.4/1991/L.87 on behalf of its sponsors, which had been joined by Canada, said that the text once again noted with deep concern that a situation of armed conflict continued to exist in Afghanistan, that acts of violence against the civilian population continued, that the treatment of prisoners detained in connection with the conflict did not conform to humanitarian rules, that more than 5 million refugees were living outside Afghanistan and that many Afghans were displaced within the country. He drew attention in particular to the new elements, contained in paragraphs 5, 6 and 12. He hoped that, as in 1990, the draft resolution could be adopted without a vote.

133. Mr. PACE (Secretary of the Commission), speaking on the financial implications of the draft resolution contained in document E/CN.4/1991/L.87, said that it would require the Special Rapporteur to undertake consultations in Geneva in May-June 1991 for a period of five working days; to carry out, accompanied by two staff members of the Centre for Human Rights, two field missions to the region during 1991 for ten working days each time; to return to Geneva in August-September 1991 for five working days to finalize the report to the General Assembly; to spend five working days in New York to submit his report to the General Assembly at its forty-sixth session; to return to Geneva for five working days in December 1991 to finalize the report; and to return to Geneva again to present the report to the forty-eighth session of the Commission. Costs, which in addition to the above-mentioned travel would also include professional and general service resources, were estimated at $US 101,600 in 1991 and $US 13,700 in 1992. Two interpreters might be needed to accompany the Special Rapporteur on his mission, as well as translation facilities for an estimated 100 pages of translation (Dari/Pashtu), as required, to be financed under Section 29B (Conference Services Division, Geneva). The draft resolution was considered to be within the scope of perennial activities, and resources would therefore be provided from the existing provision for the Economic and Social Council mandates under Section 23 (Human Rights) and Section 28, respectively.

134. Draft resolution E/CN.4/1991/L.87 was adopted without a vote.

135. Mr. AL-SABAH (Observer for Kuwait) speaking on draft resolution E/CN.4/1991/L.68, said that on 28 January, when the Commission had started its forty-seventh session, a war had just begun, after Iraq had refused to comply with the relevant resolutions of the Security Council.

136. Mr. AL-KAHDI (Iraq), speaking on a point of order, asked whether an observer State could take the floor at the present time; in the view of his delegation, statements should only be allowed in explanation of vote by the member States of the Commission.

137. The CHAIRMAN said that when the vote had been held on the draft resolution, Kuwait had not been given the floor, because it did not have the right to vote. For that reason, and applying the criterion of fairness, he had given Kuwait the floor; that delegation could continue with its statement.

138. Mr. AL-SABAH (Observer for Kuwait), continuing his statement, said that for his country, the war had begun on 2 August 1990, when Iraqi conquerors had desecrated Kuwait. The victory of the operation "Desert Storm" was also a victory for the Commission on Human Rights, which had voted overwhelmingly to condemn Iraq for human rights violations in Kuwait under the Iraqi occupation. Kuwait thanked all those delegations that had voted in favour of draft resolution E/CN.4/1991/L.68 and which had spoken out for the cause of Kuwait's liberation.

139. Mr. MALGINOV (Union of Soviet Socialist Republics), speaking in explanation of vote, said that his delegation had not wished to oppose the consensus on the draft resolution. The agreement reached several years previously among all the interested parties had had a positive impact on the atmosphere in the Commission. That agreement had testified to the growing

support for the Government of Afghanistan, which currently controlled most of the country and was seeking to broaden its contacts with the international community. The draft resolution had not been sufficiently balanced, because it had not taken into consideration elements contained in the report of the Special Rapporteur, in particular the negative impact that opposition groups continued to have on the human rights situation in that country. It was to be hoped that, in the future, the sponsors would show greater flexibility, a willingness to listen to the opinion of other delegations, and more diplomatic tact.

140. Mr. SENE (Senegal) said that his delegation had voted in favour of draft resolution E/CN.4/1991/L.68, in order to give the Iraqi Government the opportunity to provide information that would help to clarify the situation, but it could not remain indifferent to the loss of life and material damage caused by the bombing.

141. Mr. WANG Xuexian (China) said that his delegation wished to place on record its serious reservations about draft resolution E/CN.4/1991/L.84 on the situation of human rights in Albania.

142. Mr. RICUPERO (Brazil) said that his delegation had voted in favour of the procedural motion introduced by Colombia and had abstained on the amendments and on the amended draft resolution E/CN.4/1991/L.88. Brazil had actively favoured a consensus resolution on Cuba, which would have been more suitable for protecting and promoting human rights in that country. Having realized, however, that no common ground had been reached on certain aspects of the issue, his delegation had voted in line with Brazil's position on earlier occasions when the matter had been brought before the Commission.

143. Mr. FULDA (Germany) said that although his delegation had not opposed the adoption of draft resolution E/CN.4/1991/L.60/Rev.1 without a vote, it could not identify with its thrust. New and complex subjects should only be introduced after extensive consultation among members, especially when they involved difficult questions of international law that had already been discussed for years in the competent United Nations bodies, where a sophisticated legal debate on State responsibility had been taking place. Germany objected in particular to the phrase "the establishment of further clear rules regulating responsibility for human rights violations" in paragraph 2 and hoped that the draft resolution would not be used to apply pressure on those United Nations bodies competent in the area.

144. Mr. AMOO-GOTTFRIED (Ghana) said that, as a sponsor of the original text, his delegation had abstained in the vote on draft resolution E/CN.4/1991/L.88, as amended, because the amended version was no longer in the spirit of that text. It therefore associated itself with the statement made by the representative of Venezuela and withdrew its sponsorship. Any resolution on the situation of human rights in Cuba should be based on and reflect the spirit of the Secretary-General's report to the Commission on his contacts with the Government of Cuba.

145. Ms. PATTERSON (United States of America) speaking on draft resolution E/CN.4/1991/L.27, said that the United States was seriously concerned about violations of human rights in southern Lebanon, including those within the self-declared Israeli security zone, and it had noted its concern in that

regard in the 1990 edition of its annual report on human rights practices in Lebanon. Because of the severely imbalanced nature of the draft resolution, however, her delegation had been unable to support it.

146. One of the human rights abuses that most disturbed the United States was the alleged incommunicado detention of prisoners. Her Government called upon all groups in southern Lebanon to cease their training for the planning and launching of attacks on Israel from southern Lebanon. The best way to restore human rights and security for the people of southern Lebanon and the area as a whole was to extend the authority of the Lebanese Government over all Lebanese territory, to dissolve all armed militia and to withdraw all non-Lebanese forces. The United States had welcomed the deployment of the Lebanese army to parts of southern Lebanon and hoped that everyone in the area would respect the army's authority and co-operate with it.

147. Mr. DAYAL (India), said that his delegation was totally in agreement with the German delegation's comment that draft resolution E/CN.4/1991/L.60/Rev.1 had very far-reaching connotations which had not been adequately discussed. It should not be used to put any kind of pressure on United Nations human rights bodies, and more thinking and discussion in that regard were needed.

148. Mr. CROOK (United States of America) associated his delegation with the concern expressed by the representatives of Germany and India with respect to resolution E/CN.4/1991/L.60/Rev.1, and expressed the hope that the difficult legal matter in question would receive very careful consideration and would not be invoked as a precedent in other forums.

149. Mr. RAMLAWI (Observer, Palestine) said that his delegation had not intended to take the floor at the current stage of the Commission's work, but what he had to say was related to the comments of other delegations on the sufferings of Palestinians in Kuwait, who were being subjected to murder, torture and mass arrest.

150. Those Palestinians, many of whom had been living in Kuwait for over 40 years, had worked hard and contributed to the development of the State of Kuwait in the fields of education, medicine, engineering and other technical activities when not a single Kuwaiti had been engaged in any of them. That was an irrefutable fact of which the Palestinians were proud. The facts as to the massacres, mass arrests and brutal torture to which the 170,000 Palestinians in Kuwait were now being subjected had been attested to by the Western media and had been seen in television broadcasts. In its statement on the previous day, Amnesty International had made a direct appeal to all Governments, including the Government of Kuwait, to end the sufferings of the Palestinians in that country, which was but a part of the sufferings inflicted on all Palestinians wherever the United States of America exercised its influence in response to Israel's wishes, as was the case in Lebanon. The struggle of the Palestinians against the Israeli occupation would not be suppressed, however, and would continue until the brutal treatment of Palestinians, wherever it occurred, was brought to an end.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) CO-ORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (continued) (E/CN.4/1991/L.41/Rev.1)

Draft resolution E/CN.4/1991/L.41/Rev.1

151. Mr. ALFONSO MARTINEZ (Cuba) said that, at the time of his original introduction of the draft resolution, the text had not been circulated officially and it had not been possible to vote on the unofficially circulated text, although one delegation had suggested that that might be done under rule 52 of the rules of procedure.

152. The sponsors had subsequently conferred with various delegations that had suggested some changes in the text, and a number of amendments had been made with a view to reaching a consensus. The sponsors had been unable, however, to agree to a proposed amendment to the penultimate preambular paragraph, which referred to the duty of all Governments to carry out the obligations they had undertaken under international law and to respect and enforce those rights under domestic legislation. The sponsors had shown considerable good will in accepting 14 other suggestions, and he hoped that delegations would find it possible to adopt the revised version of the text by consensus.

153. Mr. WALKER (Australia) said that his delegation had been involved in protracted negotiations with the delegation of Cuba, and he shared that delegation's hope that the Commission could adopt a text by consensus. His delegation still had difficulties, however, concerning the penultimate preambular paragraph, which, as it stood, could be construed as meaning that domestic legislation might override obligations undertaken under international law, and that was a situation that his delegation and certain others were unable to accept. The text might be made acceptable for adoption without a vote by adding the words "in conformity with those instruments" at the end of the paragraph, the instruments referred to being the various international instruments in the field of human rights.

154. Mr. ALFONSO MARTINEZ (Cuba) said that the point at issue was not a case of conflict between national and international law. There was, on the one hand, domestic legislation that was enacted to apply international standards, and, on the other, domestic legislation that had nothing to do with international law. The paragraph, as it stood, covered both kinds of national legislation. In view of the protracted negotiations that had taken place and the many amendments that had been accepted, he appealed to the Australian delegation not to press for a vote on the draft resolution merely because of a not very important detail in a preambular paragraph.

155. In reply to a question by the Chairman, Mr. WALKER (Australia) said that he wished to maintain his amendment, since the preambular paragraph in question would otherwise be open to the interpretation that the Commission might endorse domestic laws that were in conflict with international human rights instruments; and that was something that the Commission was unable to do.

156. Mr. DAYAL (India) expressed his satisfaction at the broad consensus that had been reached on most aspects of the draft resolution. He had no real problem about the request to States to respect and enforce in good faith their domestic legislation in conformity with international instruments which they had accepted. He nevertheless questioned the need for the Australian amendment. Emphasis was placed in the same preambular paragraph on the duty of all Governments to carry out their obligations under international law, especially the Charter, as well as various international instruments in the field of human rights. He could not see how States could respect and enforce their domestic legislation while failing to carry out their obligations under international law.

157. Mr. ALFONSO MARTINEZ (Cuba), associating himself with the comments made by the representative of India, said that he could see no essential difference between the existing text and the version as amended by Australia.

158. Mr. BOSSUYT (Belgium) said that his delegation supported the Australian amendment. Domestic legislation was not always in keeping with international law, and it must be made explicit that the domestic legislation which States were being asked to respect and enforce must be in conformity with international instruments.

159. Mr. CHABALA (Zambia) said that his delegation could see no conflict, in the existing wording of the preambular paragraph in question, between domestic legislation and international instruments. The sponsors had gone a considerable way to accommodate the suggestions and amendments proposed by delegations. To expect them to accept every single amendment was a one-sided attitude in a process of negotiation that should be a matter of give-and-take. The inconsequential amendment that had been proposed should not be allowed to prevent the Commission from reaching a consensus on the draft resolution.

160. Mr. DAYAL (India) said that his delegation had no objection to making any paragraph explicit, but it wished to avoid repetition. Two aspects were covered by the preambular paragraph in question: the aspect of the enforcement of domestic legislation and that of respect for international instruments. If domestic legislation was not in conformity with international instruments, then the State concerned was not carrying out its obligations under international law, and since their duty to do so had been stressed in the paragraph, it would be repetitive to add the words "in conformity with those instruments". His delegation was not among the sponsors of the draft resolution and was not pleading on their behalf, but was merely advocating a rational text which was explicit but devoid of repetition.

161. Mr. WANG Xuexian (China) said that he, too, considered the Australian amendment unnecessary, for the reasons given by the representatives of India and Zambia. Reference was made in the paragraph to obligations undertaken under international law, especially the Charter, yet the Australian amendment

referred only to the various international instruments in the field of human rights and omitted any reference to obligations under international law and the Charter.

162. Mr. WALDROP (United States of America) said that the current discussion was marked by a series of paradoxes. It had been said that the point at issue was a very minor one and that the meaning of the paragraph was the same with or without the Australian amendment. If that was the case, it would appear logical to accept the five additional words proposed by the Australian delegation.

163. The tenth preambular paragraph contained at least an implicit contradiction in first mentioning the paramount responsibility of States under international law and then going on to refer to domestic legislation. Paramount meant the highest, most important and most significant element, and if obligations under international law were paramount there was no point in calling for the enforcement of domestic legislation.

164. His delegation supported the Australian amendment. If the sponsors were unable to accept it, they might consider deleting the end of the paragraph, after the words "in the field of human rights".

165. The CHAIRMAN said that he would put the Australian amendment to the vote.

166. Mr. DAYAL (India) said that his delegation would vote against the amendment because it considered it unnecessary.

167. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation, too, would vote against the amendment.

168. The CHAIRMAN invited the Committee to vote on the Australian amendment to the tenth preambular paragraph of draft resolution E/CN.4/1991/L.41/Rev.1.

169. The Australian amendment to the tenth preambular paragraph was adopted by 19 votes to 17, with 7 abstentions.

170. The CHAIRMAN said that if there was no request for a vote on the draft resolution as a whole, and as amended, he would take it that the Commission wished to adopt it without a vote.

171. Draft resolution E/CN.4/1991/L.41/Rev.1, as amended, was adopted without a vote.

172. Mr. WALDROP (United States of America) said that, in joining in the adoption of the draft resolution, his delegation had noted its resemblance to General Assembly resolution 45/163, and had taken account of the fact that the revised text, as adopted, incorporated a number of amendments that had made it a significant improvement over the original version. That had been the result of sustained efforts by a number of delegations, and of the sponsors' desire to reach a consensus. While welcoming the adoption of the draft resolution without a vote, however, his delegation was still concerned about certain aspects of the text that it considered unclear or inappropriately focused.

173. International co-operation in the field of human rights must be based on a clear understanding of the human rights situation in individual countries, and that point should have been emphasized in the fifth preambular paragraph and in operative paragraph 6. Information about economic, social and cultural factors was significantly less important.

174. Read in isolation, operative paragraph 3 might convey an innacurate and inappropriate impression. The promotion, protection and full realization of all human rights and fundamental freedoms in all countries was a legitimate concern of the international community pursuant to its responsibilities under the Charter of the United Nations and the Universal Declaration of Human Rights. Such endeavours must not be confused with political aspects of relations among nations. His delegation welcomed the wording of operative paragraph 2, which in part reaffirmed the responsibility of the United Nations and all Member States to remain vigilant with regard to violations of human ights wherever they occurred.

175. The United States doubted the appropriateness of the request in operative paragraph 9, which would require the contents of the resolution to be included among the topics for discussion in the context of the study on the right to freedom of opinion and expression. In his delegation's view, there was little if any connection between the contents of the resolution and the study in question, and the Sub-Commission's special rapporteurs would undoubtedly share that view.

176. Mr. MUYOVU (Burundi) said that, although it had abstained in the vote on the Australian amendment, his delegation associated itself with the adoption without a vote of the draft resolution as a whole and as amended. The reason for its abstention on the Australian amendment was that the adoption of the United States delegation's suggestion that the last clause of the paragraph should be deleted would have been preferable.

177. Mr. DUHS (Sweden) said that his delegation had participated in the consensus on the draft resolution on the understanding that neither the draft resolution as a whole nor any part of it should be interpreted as contradicting the obligation of Member States to promote universal respect for, and observance of, human rights and fundamental freedoms as set forth in Articles 55 and 56 of the Charter. Concern for human rights should never be interpreted as interference in the domestic affairs of a particular country as defined by Article 2 of the Charter.

178. Mr. ALFONSO MARTINEZ (Cuba), said that, despite the adoption of the Australian amendment, his delegation had been willing to support the adoption of draft resolution E/CN.4/1991/L.41/Rev.1 without a vote. The basic importance of the text was that it opened up a forum for the discussion of a very important question, with two aspects. First, the Sub-Commission must study how best to strengthen international co-operation based on the principles of non-selectivity, objectivity and impartiality. Secondly, the request made in operative paragraph 6 to the Special Rapporteurs of the Sub-Commission was entirely in line with the mandate they had received from the Economic and Social Council at the request of the Commission, and his delegation was confident that their final report would contain an in-depth discussion on ways of ensuring that the United Nations human rights bodies and the public at large could obtain objective information on events in particular

countries, rather than the partial or manipulated information often received - or indeed a total suppression of information, as in the case of the recent events in the Gulf.

179. In joining the consensus on the draft resolution after the adoption of the Australian amendment, his delegation wished to stress that, as now worded, the resolution might seem to imply that States were not obliged to comply with their own legislation in cases where it was not regulated by international human rights instruments. The draft resolution must be understood in its original sense, and not in the restrictive sense of the present text.

180. Mr. ZAMIR (Bangladesh) said that his delegation viewed draft resolution E/CN.4/1991/L.41/Rev.1 as dealing with very serious matters, since the domestic legislation of third world countries was a major concern to the other countries of the world community. Had the resolution been voted on without amendment, his delegation would have abstained in the voting. After the adoption of the amendment, it had considered it appropriate to vote against the resolution as a whole, but had joined the consensus in a spirit of co-operation.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1991/L.82 and Rev.1, E/CN.4/1991/L.83)

Draft resolution E/CN.4/1991/L.82/Rev.1

181. Draft resolution E/CN.4/1991/L.82/Rev.1 was adopted without a vote.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SECOND SESSION (agenda item 19) (continued) (E/CN.4/1991/L.52; E/CN.4/1991/L.62; E/CN.4/1991/L.71; E/CN.4/1991/L.76; E/CN.4/1991/L.79/Rev.1; E/CN.4/1991/2, Chapter I A, draft resolution II; Chapter I B, draft decision 2)

Draft resolution E/CN.4/1991/L.71

182. Mr. ALFONSO MARTINEZ (Cuba) wished to propose some revisions to draft resolution E/CN.4/1991/L.71 which had resulted from discussions with some delegations.

183. He proposed that, in the third preambular paragraph, in line 4 of the English text, the concluding phrases should be reworded to read: "... that the decision to take a secret ballot was reached by general agreement; and the question was akin to an election,".

184. The second proposed revision was the addition of an operative paragraph, numbered paragraph 1, to read: "Takes note of resolution 1990/4 of the Sub-Commission dated 23 August 1990;". Paragraph 1 of draft resolution L.71 would thus become paragraph 2.

185. The third proposed revision was the deletion of the words "including the possibility of drafting special new rules of procedure for the Sub-Commission which would be more in keeping with the characteristics of a body of independent experts", at the end of paragraph 2 (para. 1 in the original text).

186. Lastly, he proposed adding to the end of paragraph 3 (para. 2 in the original text), the words: "through the Chairman of its forty-third session".

187. Mr. GOMPERTZ (France), having consulted with many delegations, wished to propose some amendments to the text of draft resolution L.71. Those amendments related to the original text, but were equally applicable to the revised text proposed by the Cuban delegation.

188. In the second preambular paragraph, after the date "1989", his delegation proposed adding the words: "in particular paragraphs 43, 47, 50, 52, 54 and 55".

189. A new third preambular paragraph should be inserted, worded as follows:

"Believing that situations of serious violations of human rights in certain countries which come before the Sub-Commission may require the use of a secret ballot to strengthen the independence of the membership,".

190. The original third preambular paragraph should be replaced by the paragraph:

"Bearing in mind the opinions of the Legal Counsel of the United Nations dated 16 February 1984 and 30 July 1989,".

191. Lastly, operative paragraphs 1 and 2 (paras. 2 and 3 in the version as revised by the Cuban delegation) should be replaced with the following paragraphs:

"1. Proposes that the Economic and Social Council interpret the rules of procedure as they pertain to the Sub-Commission;

2. Recommends the following draft resolution to the Economic and Social Council for adoption at its next session:

'The Economic and Social Council,

Taking into account the relevant opinions of the Legal Counsel of the United Nations dated 16 February 1984 and 30 July 1989,

Interprets rule 59 of the rules of procedure of the functional commissions of the Economic and Social Council as follows: it is understood that the Sub-Commission on Prevention of Discrimination and Protection of Minorities may vote on resolutions pertaining to allegations of violations of human rights in countries by secret ballot, when it so decides by a majority of its present and voting members.'"

192. The Sub-Commission had itself proposed, in its draft resolution II, that the rules of procedure of the functional commissions of the Economic and Social Council should be amended by means of a footnote. After consultations with other delegations, his delegation had concluded that the Sub-Commission's proposal went too far, and that, in view of the risk of creating a precedent,

there was no need to amend those rules of procedure. Likewise, the Sub-Commission had proposed that the Commission should institutionalize the systematic use of voting by secret ballot. Again, after consultations, his delegation had concluded that that proposal went too far, and that it would be sufficient to allow for the possibility of voting by secret ballot. He expressed the hope that the amendments proposed by his delegation could be adopted by consensus.

193. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation had no problem with the first and third amendments proposed by the French delegation. However, the second proposed amendment, for a new third preambular paragraph, was unacceptable. One basic aspect of the experts' independence was that they were able to give their views. It was hard to see how secrecy would guarantee their independence. Not only would it be impossible to know the position of each expert, but experts would also be denied the opportunity to explain their vote provided under rule 60.

194. However, his delegation's major difficulty concerned the last amendment proposed by the French delegation, namely, to replace the only two operative paragraphs of draft resolution E/CN.4/1991/L.71 by an entirely different text, thereby totally changing the meaning of the draft resolution. He formally proposed that the Commission should decide, by a vote, whether the proposed amendment in fact constituted an amendment within the meaning of rule 63.

195. Mr. GEBRE-MEDHIN (Ethiopia) said that, if the Commission was ready to take action on the recommendation of the Sub-Commission, on the Cuban draft resolution, and on the amendments thereto by the French delegation, his delegation wished to explain its vote before the vote was taken.

196. The CHAIRMAN said that the Ethiopian delegation could speak in explanation of vote at a later stage in the meeting. At present, members should confine their remarks to the procedural question raised by the Cuban delegation.

197. Mr. WANG Xuexian (China) said that he would address the procedural issue, but also wished to touch on the substance. First, his delegation agreed with the Cuban delegation that the final amendment proposed by the French delegation was not in fact an amendment, but a new proposal; and should be regarded as a new draft resolution. Secondly, whatever its status, the proposal by the French delegation changed the rules of procedure. The Commission should beware of tamperering with those rules of procedure in the interests of short-term convenience.

198. He reminded members of the Commission that the Legal Counsel of the United Nations had given it as its opinion that it was appropriate to hold secret ballots only where one of two conditions was met: namely, that the decision to take a secret ballot was reached by general agreement; or that the question under discussion was akin to an election. The Commission was a law-abiding body, and it should respect that opinion.

199. The CHAIRMAN again requested members to confine their remarks to the procedural question raised by the Cuban delegation, and not to address the substance of the matter.

200. Mr. GOMPERTZ (France) said that, in his delegation's view, the proposal in question was indeed an amendment, since it was based on the original text of the Cuban delegation.

201. Mrs. QUISUMBING (Philippines) said that, in view of the late hour, her delegation had intended to appeal to the Commission to address the substance of the issue, namely, how best to preserve, and indeed strengthen, the independence of members of the Sub-Commission. That question was too important to be treated merely in terms of a procedural victory. However, in view of the Chairman's remarks, it seemed that such comments would not be in order.

202. Mr. BOSSUYT (Belgium) said that his delegation also had comments to make on the substance of the question. In its view, the amendments proposed by France could be seen as an attempt to create a link between the proposal by the Sub-Commission and the draft resolution by the Cuban delegation. A procedural decision, which might lead to the elimination of some of the French proposals, would not solve the problem. In order to tackle the question with the requisite seriousness, the Commission must make its position clear, by means of a vote on the amendments proposed by France.

203. Mr. BARKER (Australia) drew the attention of the Commission to the title of draft resolution E/CN.4/1991/L.71. The amendments proposed by the French delegation manifestly aimed at achieving the objective set forth in that title. Furthermore, they set out to revise only part of the draft resolution. In his delegation's view, under rule 63 those amendments could only be amendments, and not a new proposal.

204. Mr. ALFONSO MARTINEZ (Cuba), referring to remarks made by the representatives of the Philippines and Belgium, said that his delegation's methods of work did not justify accusations that it was attempting to solve the question by means of "procedural victories"; nor was it accustomed to tackle issues without "the requisite seriousness". He stressed that his delegation was most anxious to resolve the question of the desirability or otherwise of accepting secret voting on certain matters by members of the Sub-Commission. The fact remained that the proposal by the French delegation did not seek merely to add to, delete from or revise part of the draft resolution, but totally to change its meaning. In effect, the result was a new text. Once that procedural question had been resolved, the Commission would have an opportunity to consider the virtues of the substance of the French proposals.

205. Mr. DAYAL (India) said that the procedural and substantive aspects of the question under discussion were very closely linked. The representative of the Philippines had rightly said that the question at issue was the independence of members of the Sub-Commission. Operative paragraph 1 of draft resolution E/CN.4/1991/L.71 requested the Sub-Commission to study ways and means of strengthening the independence of its members. The attempt by the French delegation to deal with the interpretation of rule 59 was one way of achieving that aim; it was not, in his delegation's view, the only way. Furthermore, it removed the emphasis on studying ways and means of increasing members' independence. Consequently, his delegation considered that it was in fact a new proposal.

206. Mrs. QUISUMBING (Philippines) regretted that the representative of Cuba had misinterpreted the purpose of her remarks. Her delegation merely regretted that the procedural issue had been raised so soon as to deprive members wishing to speak on the substance of the opportunity to contribute to the debate. Her delegation in fact supported many of the ideas contained in Cuba's resolution, and would welcome the opportunity to discuss the substance of the French proposals. She requested permission to do so.

207. The CHAIRMAN said that the representative of the Philippines was not requesting permission, but was asking for an exception to be made.